

THE MANAGEMENT
OF JURIES WITHIN
LOS ANGELES COUNTY

A Report by

The Citizens Economy and Efficiency Commission
Of Los Angeles County

December 1994

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The Mission of the Economy and Efficiency Commission is to examine any function of County government at the request of the Board of Supervisors, on its own initiative, or as suggested by others and adopted, and to submit recommendations to the Board directed toward improving local government economy and efficiency, and effectiveness.

I. Executive Summary

In May 1994, the Los Angeles County Citizens Economy and Efficiency Commission undertook a review of the Los Angeles County jury management system. This decision was based upon the experience of members of the Commission who recently served on jury duty, together with that of other individuals who have been involved in jury service. Each expressed concern about the treatment of citizens being summoned for and serving in the Los Angeles County jury system. Additionally, a number of articles have been published in the Los Angeles Times, the Daily News, the San Gabriel Valley Newspapers, the Long Beach Press-Telegram, and the Los Angeles Daily Journal, among others, expressing concerns over the treatment of jurors and the length of the term of jury service.

This effort involved contacting other jurisdictions, both within and outside California, to review their jury management systems. It also undertook research of extensive literature available from professional organizations on the subject of court administration. The study approached the issue from the perspective of citizens who are called to jury service. It had as its objective the enhancement of the positive aspects of being involved in the jury process.

This study has concluded that a number of actions can be undertaken by the Los Angeles County Courts to improve its jury management system. These actions can make the jury experience a more productive and positive one for our citizens. The Commission has made 45 recommendations for improvements. These recommendations are discussed in 7 sections of this report covering the following:

- Actions to increase the pool of qualified and willing jurors.
- A one-part affidavit/summons mailing to improve efficiency.

". . . I was sitting on the floor outside a courtroom, a prisoner of the Criminal Justice System. I hadn't done anything wrong, except answer my jury summons."

*Bill Boyarsky
L. A. Times
December 5, 1993*

- Improvements in the physical facilities and amenities available to jurors.
- The reduction in the length of term for jury service.
- Improvements in the treatment of jurors.
- Increases in juror compensation and expense reimbursement.
- Encouragement to employers to compensate employees while on jury service.

II. Introduction

*"I completed jury service . . . , and I vow , 'Never again.' Jury panelists . . . are treated like members of a working party in boot camp, where a vast number of guys are rounded up and mostly left to kill time."
(Quote from a reader)*

*Bill Boyarsky
L. A. Times
Dec. 26, 1993*

MAYOR ANTONOVICH The citizens' impression of jury service begins with the receipt of a summons and continues throughout the process until the completion of jury service. This involvement makes a strong and lasting impression; whether it be positive or negative.

Ideally, those involved share an experience that is both beneficial to the individual and critical to the effective functioning of the justice system. Everyone recognizes that jury service is essential in making a positive difference to the delivery of justice within our community and one that has a meaningful influence over the life of individuals and the structure of society. All too often jury service in Los Angeles County, as elsewhere, is characterized by those participating as an experience of frustration, wasted time, uncomfortable and unattractive facilities, a lack of information to adequately understand the process, and the failure to recognize the sacrifices involved in the performance of jury service.

Together with judges, attorneys, trial parties, and court officials, qualified and willing jurors are an essential component of the justice system. Even so, it appears that jurors have the lowest priority in the judicial system when it comes to concern for their treatment

and funding for their services and facilities. For example, in the study issued in 1994 by the Commission on the Future of the California Courts entitled: Justice in the Balance, 2020, jurors do not appear to have the appropriate level of concern as demonstrated in the statement that “...*victims and witnesses must be treated with courtesy and respect a all times.*”

For these reasons, the Economy and Efficiency Commission believed it to be worthwhile to review the jury management system within Los Angeles County to act as an advocate of the citizens who are called to serve.

During the course of this study the Commission found that several other court jurisdictions, both within and outside California, have experienced similar problems and have taken, or are taking, corrective action. Further, we found that a number of professional organizations are concerned with court administration and have studied the issues of juror treatment, and the willingness of jurors to serve. Some studies have also addressed the competence of jurors to decide high profile or complex cases, or procedural issues within the Court. These latter issues are not considered within the scope of this study.

Many of these organizations have developed detailed recommendations, standards, and measurements to improve the processes of jury management. This study has taken advantage of this work and has used and expanded upon many of their recommendations. The Commission believes that improvements in the jury management system will result in a more economic and efficient use of jurors' time and commitment, and will ultimately yield benefits in economies and efficiencies to both the court system and Los Angeles County.

"Courts must identify those procedures and processes that have proven successful in increasing the economies of jury service . . ."

Standards Relating to Juror Use & Management

American Bar Association, 1993

III. Study Objectives

The objective of this study is to improve the positive aspects of the time spent by a citizen in the performance of jury service. To achieve this objective, this study was designed to accomplish the following:

"However, the jurors' perception of what's wrong with the system may differ considerably from that of the lawyers and judges who serve on the task force. Whereas task force members talk about simplifying jury instructions and making juries more representative of the community as a whole, the issue of greatest concern to many jurors probably is that of poor working conditions."

*Daily News
Jun. 7, 1994*

- To develop the means through which jury service can be made a more positive and satisfying experience. Taking this approach will contribute to an improvement in the public perception of jury service as a civic duty.
- To identify potential improvements in the administration of jury service which could result in more effective and efficient inter-actions with the citizens of Los Angeles County.

By improving the treatment of potential and impaneled jurors citizens will be more willing and able to serve on jury duty. It is interesting to note that the courts have found that citizens who actually serve on a jury are far more likely to find the experience a satisfying exercise of one of their most important civic responsibilities. They have also found that jury service instills a greater confidence in the jury system and in our system of justice.

IV. Scope of This Review

This study has reviewed literature and reports on jury use and management available from sources such as: The National Center for State Courts, the American Bar Association, and other court jurisdictions in the United States. The Commission also interviewed jury management personnel in Los Angeles County and sought input from Orange and Ventura Counties in California, and other counties throughout the United States. The Commission did not consider the structure or processes of the County Grand Jury.

Various groups in New York, Arizona, and other states have recently issued jury reform studies. This level of activity is a strong indication of how widespread the problems of jury management are. Many of

LOCAL GROUPS REVIEWING JURY MANAGEMENT

Presiding Superior Court Judge Robert M. Mallano established a Jury Reform Task Force whose members are the Presiding and Assistant Presiding Judges, other judges in the County court system, the District Attorney, the Presidents of the State and County Bar Associations, the head of the Public Defender's Office, and a representative from the State Attorney General's Office. This Task Force has the mission of developing recommendations focusing on five areas: who are the jurors; enforcement of the summons process and security and confidentiality of jurors; changes to be made under existing law; jury orientation and education by video tape in conjunction with a question and answer session with the judge; and re-writing jury instructions for both criminal and civil cases.

The Executive Officer of the former Administratively Unified Courts, Edward M. Kritzman, appointed a special committee to study jury management issues and recommend improvements. Members include representation from the twenty-four separate court districts in the County, and people who have served on jury duty. The committee's mission is to develop recommendations that focus on jury relations, treatment of jurors waiting and on call, information and instructions given to jurors, and an improved call-in system. The current status of this committee is unknown due to the recent dissolution of the Administratively Unified Courts.

these studies consider issues similar to those in this study. But, in some cases, they have expanded their review to include procedural problems faced by the jury and courts during the trial phase of jury service. Since this project chose to consider jury management issues from the perspective of a juror, it did not expand its scope to cover these procedural issues that, in any case, may be more appropriately addressed by court management. Since the design of this study was to be as comprehensive as possible within its scope, the reader may find that some recommendations may duplicate improvements which Court management has already planned or initiated.

*"We have to
make service
attractive
enough so
that everyone
in the
community
will be
willing to
serve....
What it might
take is a
return to the
civic spirit
that we seem
to have lost
in the last
generation...
"*

*Victor Gold
Loyola Law School
Professor*

*Andy Rose
Long Beach Press-
Telegram
Sep. 26, 1994*

V. Background

The jury system in Los Angeles County is very large, complex, and expensive. The cost of managing the jury system in Fiscal Year (FY) 1993-1994¹ was \$12.6 million, of which \$7.3 million was incurred for juror fees and expenses.

“We...need to treat (jurors) with the respect, consideration and courtesy they deserve. Otherwise we will never improve the public’s perception that jury services is to be avoided or evaded at all costs, and to be endured rather than enjoyed when avoidance does not work.”

McMahon, et. Al.

The Jury Project
March 1994

<u>COST (in millions)</u>		<u>FUNDING (in millions)</u>	
Juror Fees & Expenses	\$7.3	County General Fund	\$7.9
Salaries & Benefits	2.1	State Trial Court Block Grant	<u>4.7</u>
Services and Supplies	<u>3.2</u>		
Total	\$12.6	Total	\$12.6

Source: Los Angeles County Jury Management.

Based, in part, on the size and complexity of this system, its management faces difficult challenges, among them:

High demand for jurors. In Fy1993-1994, the Municipal and Superior Courts impaneled 187,520 jurors.

Low number of people both qualified and willing to serve as jurors. To obtain the required number of impaneled jurors, 391,676 jury summons were is used. To issue this number of summons required that approximately 4,000,000 affidavits be mailed.

The current high demand/low yield dilemma compels the courts summon people as jurors more frequently. This frequency of demand on the citizen’s time diminishes the pool of people both willing and able to serve. Ideally, the jury system would rely on a pool of eligible jurors that met the needs of the court without imposing what may be an “unreasonable” demand upon the individual. An expanded pool of eligible jurors reduces the burden on each citizen while

¹A fiscal year (FY) in Los Angeles County begins on July 1 and ends on the following June 30.

Improving the diversity of community representation.

Juror administration for Los Angeles County is the responsibility of the Executive Officer/Jury Commissioner of the Superior Court. The Grand and Trial Jurors Committee also supplies direction on juror administration. Reporting to the Executive Officer/Jury Commissioner is the Manager of the Juror Services Division, who directly supervises 52 jury personnel in 13 locations and functionally supervises an additional 21 jury personnel in all other courts. The Juror Services Division supplies jurors for both the Superior and the Municipal Courts. This responsibility continues unchanged, although the Administratively Unified Courts have recently been dissolved.

The State is obligated by law to fund the courts. Currently, it provides a Trial Court Funding Block Grant which covers approximately 37% of Los Angeles County Courts' expenses. The balance of the Court's funding comes from the County General Fund.

VI. Los Angeles County's Jury Management System

A. AN OVERVIEW OF THE JUROR SELECTION AND PROCESSING SYSTEM

Figure #1 presents an overview of the Los Angeles County Juror Selection and Processing System through the use of a flow chart.

This chart also illustrates how the report and its appendices are organized to address each of the segments presented in the chart. Throughout this presentation, each major segment of the chart is explained in detail, along with alternative approaches and recommendations

Insert *Figure 1*

**LOS ANGELES COUNTY JURY SELECTION & PROCESSING
SYSTEM**

To provide the largest possible pool of prospective jurors, source lists are designed to be inclusive, representative, and as current as possible.² These lists are then used in combination to establish a Master Source List. Once the Master Source List is established, a Juror Affidavit (Appendix A) is mailed to citizens randomly selected from the list. This Juror Affidavit includes instructions for its completion and a request that it be returned within 10 days.

The Juror Services Division determines those not qualified for jury service and those to be excused based upon the returned Juror Affidavits. From the individuals determined to be qualified, another random selection is made on a weekly basis to fill the demand for jurors. The individuals selected are sent a Trial Jury Summons. This summons includes instructions on where and when to report for jury duty. (This two-part mailing used by Los Angeles County differs from one-part summons/affidavit processes employed by many other courts.) When individuals are summoned for jury service they are also considered for postponements, transfers, and hardship excuses.

Those individuals arriving to perform jury service receive an orientation and jury instructions in the jury assembly room on the first day of their service. From this assembly room, panels of individuals are selected and sent to individual courtrooms to undergo the *voir dire* process.³ The individuals not impaneled return to the jury assembly room for possible impaneling on other juries. This process may continue for up to 10 days. At the completion of this 10 day term the individual is dismissed. If a citizen is selected to be on a jury, he/she will serve until the completion of the trial,

"If the constitutional right to trial by jury is to be held inviolate forever, members of the public must step forward in response to the summons to serve. But jurors are all too often treated, not as necessary, but as a necessary evil by the lawyers, judges, court officers and clerks who inhabit the system every day."

*McMahon, et. al.
The Jury Project
Mar., 1994*

² The Code of Civil Procedure, Section 197, is the authority from which these lists are established.

³ *Voir dire* refers to the examination by the Court or by the attorneys of prospective jurors, to determine their qualification for jury service, to determine if cause exists for challenge (i.e., to excuse) particular jurors, and to provide information about the jurors so that the parties can exercise their statutory peremptory challenges (objections to particular jurors without the need for any cause to be stated).

at which point he/she is dismissed. This system is known as a one trial/10 day system. Following jury service, jurors are mailed a check for an amount due. This amount is based on the established fee for days actually served and for one-way mileage expense reimbursement.

B. SOURCE LISTS AND SELECTION

"But there came those moments, with a group assembled in a jury box, when it suddenly made some sort of sense. . . . So many so serious about their civic duty when duty truly called."

*Anna Quindlen
New York Times
Jun. 16, 1994*

BACKGROUND

The Superior and Municipal Courts of Los Angeles County conducted 5,766 jury trials in FY 1993-1994.⁴ These trials required that 187,520 citizens serve on jury duty. To impanel this number of jurors, 4,094,641 Juror Affidavits were mailed. Of the Juror Affidavits mailed, 48% were not returned; 15% were undeliverable; 3% were returned for updating; 24% were excused either as not qualified (10%) or as undue hardship (14%); and 10% were qualified for jury duty. Of the 10% (391,676 persons) who were qualified and summoned, slightly less than one-half (187,520 persons) served on juries.

Although these percentages had remained relatively consistent over the years prior to FY 1993-1994, there are indications the situation worsened when compared to FY 1992-1993. For example, during this period the number of affidavits mailed increased from 2,965,384 to 4,094,641 (an increase of 38%).

In spite of this additional mailing, the number of jurors qualified and summoned has remained about the same (approximately 400,000). This represents a drop in qualified jurors from approximately 14% to approximately 10% of the Juror Affidavits mailed.

4

Data derived from Los Angeles Jury System Fact Sheet Fiscal Year 1993-94.

The numbers of jurors who actually served remained about the same, but the percentage based upon the number of Juror Affidavits mailed has dropped from approximately 6% to approximately 5%. The percentage of those not responding increased from 37% to 48%.

These numbers represent an "overall yield"⁵ of jurors serving of about 5% for Los Angeles County, which is low compared to most other jurisdictions nationwide. The National Center for State Courts, in 1981, published a standard of 40% for "overall yield" as a realistic goal for most jurisdictions, although they recognized that in certain areas with high juror demand and low percentages of qualified jurors, a lower standard may be appropriate.⁶

The "overall yield" measurement is an indicator of the efficiency of the source lists, the willingness of the community to serve on jury duty, the excuse and postponement policy of the court, and the number of exemptions allowed by statute. The low yield percentage for Los Angeles County is an important indicator of the difficulties facing the County's jury management personnel.

A low yield of willing and qualified jurors, however, is not a problem unique to Los Angeles County. The Chief Judge of New York State, Judith S. Kaye, commissioned a major review of that state's system of juror use and management in 1993.

"When asked, most trial jurors admit that upon receiving the jury summons their attitude was strongly negative. As a result of this kind of reaction, many people fail to respond or report as directed."

*Dann, et. al.
Jurors: The Power of
Twelve
Sep., 1994*

⁵ "Overall yield "is an important measurement standard used by jury management professionals. It is the product of multiplying the juror qualification yield percentage by the juror summoning yield percentage.

⁶ MUNSTERMAN, G. THOMAS, ET AL. *Methodology Manual for Jury Systems*. In Support of the Law Enforcement Assistance Administration Incentive Program in Juror Use and Management, National Center for State Courts, December 1979, revised February 1981.

The resulting report *The Jury Project*⁷ was issued in March 1994. This comprehensive review addresses some of the same concerns and issues, which face Los Angeles County.

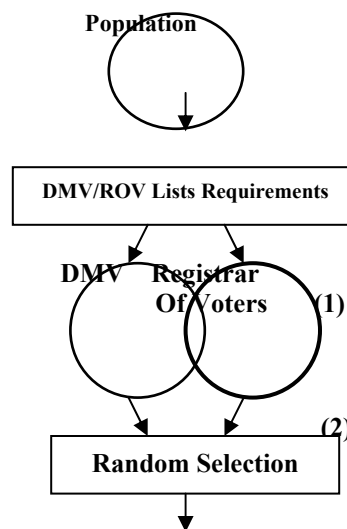
In Arizona the State’s Chief Justice of the Supreme Court appointed “The Committee on More Effective Use of Juries” in 1993 to study and evaluate the utilization of juries and the conduct of jury trials in Arizona. It was also tasked with recommending specific means to improve jury trials, the effectiveness of juries, and the quality of jury verdicts.

The committee issued its report, *Jurors: The Power of Twelve*⁸ in September, 1994. The report addresses a number of the same jury management issues raised and examined by the Economy and Efficiency Commission, including increasing the yield of qualified jurors. It also recommends the adoption of *A Proposed Bill of Rights for Arizona Jurors*.⁹

CURRENT PROCESS

At present, Los Angeles County uses, as do Orange and Ventura Counties, two source lists for jurors: the list of registered voters from the County Registrar of Voters, and the Department of Motor Vehicles list of licensed drivers and identification card holders resident within the area served by the Court. [Figure #2-(1)] These two lists are purged of duplicate names, invalid addresses, et cetera, thus creating a master list.

Figure #2
SOURCE LISTS & SELECTION



⁷ McMAHON, ET AL. *The Jury Project*. Report to the Chief Judge of the State of New York, March 1994.

⁸ DANN B. MICHAEL, ET AL. *Jurors: The Power of Twelve*, The Arizona Supreme Court Committee on More Effective Use of Juries, September, 1994.

⁹ *Ibid.*

This master list is compiled annually by the Juror Services Division as required by the Code of Civil Procedure, Section 198, and currently contains approximately 3,500,000 names.¹⁰ The two source lists, from which the master list is created, are estimated by Court personnel to cover approximately 85% of the County's jury eligible population.

The Code of Civil Procedure states, ". . .*that all persons selected for jury service be selected at random [Figure #2-(2)] from a source, or sources, inclusive of a representative cross section of the adult population of the area served by the court.*" Sources may also include such lists as telephone subscriber lists, utility subscriber lists, customer mailing lists, or similar compilations.

The reasons for low jury yields within Los Angeles are many and include: population characteristics, source list quality, high juror demand, and a shrinking pool of qualified jurors who are willing to serve. Court records show that about one-half of those not returning their Juror Affidavits had not returned the form at least one time previously. This appears to indicate that a high percentage (perhaps 24%) of those contacted are reluctant or unwilling to respond to jury service, or they believe they can "get away" with not responding.

County jury management personnel are aware of this problem and have reported that they are currently experimenting with selective follow-up mailings to non-respondents. These approaches may include a requirement to have the individual notified sign upon receipt of the Juror Affidavit or other official notice.

There is a generally held perception by some individuals that they are contacted or summoned for jury duty much more frequently than others.

". . . Many individuals still seek to avoid serving by ignoring jury notices; indeed, the current no-show rate is about 55% nationally."

*Stephen J. Adler
Wall Street Journal
Sep. 14, 1994*

¹⁰ Clarification: Since approximately 4,000,000 affidavits were mailed in FY 1993- 1994, it was necessary for the County to take approximately 500,000 prospective jurors from the master list of the FY 1994-1995 file.

"They (jurors) have been conscripted into duty in and pressed into action in a run-down, dirty Downtown courthouse. They must remain there all day, herded like cattle, isolated in dank waiting rooms, treated as if they were wayward children. And all this for \$5 a day and free parking a good distance from the Criminal Courts Building.

The jury panelists should be given public service medals."

*Bill Boyarsky
L. A. Times
Oct. 26, 1994*

Los Angeles County Ordinance No. 87-01118U states that ". . . no trial juror shall be required during any 12-month period to serve more than 10 court days, except as necessary to complete the hearing of an action." County jury management has expanded upon this requirement by establishing a policy of not summoning anyone who has served in the past two years. (The future goal of the Courts is to extend the summons to no more than once in four years.) Jury management has stated that its investigations of complaints concerning the frequency of summonses show that they are often caused by problems with the source lists, such as duplicate names; the receipt of a postponement; a second Juror Affidavit in error; or similar systemic difficulties.

ALTERNATIVE APPROACHES

The American Bar Association (ABA) Committee on Jury Standards recommends the use of multiple juror source lists. The objective of having multiple

population¹¹ and to be both **inclusive** covering a high percentage of the entire adult population), and **representative** (reflecting the demographics of the community). ABA suggested source lists include: registered voters, licensed drivers, motor vehicle owners, local census, utility customers, property owners, and telephone customers. An additional resource for California may lie in a listing of newly naturalized citizens.

Although the Registrar of Voters and DMV Drivers' License lists are both highly inclusive and representative of the County population, they are not updated frequently, e.g., the DMV list is usually updated every four years. This is part of the reason for a high percentage of undeliverable Juror Affidavit mailings (15%). Lists such as the DMV's list of vehicle registrations, and telephone company and utility company lists have more current addresses, and could be considered available.

Each reduction of one percentage point of the undeliverable mailings could save as much as \$16,000. [This assumes a 40¢ cost for each mailing X 600,000. (4,000,000 Juror Affidavit mailings X 1% = 40,000.)]

In the State of New York, the Office of Court Administration has used three source lists to compile the state's master list of eligible jurors: voter registration rolls, drivers' licenses, and state income tax rolls. New York estimates that these three lists cover 90% of eligible jurors.¹² New York State recently announced it will require that its pool of prospective jurors include people drawn from welfare and unemployment rolls.¹³

Since New York State faces severe shortages of qualified and willing citizens to serve as jurors, *The Jury Project* recommends, in addition to other actions, the implementation of a comprehensive education and outreach program to promote the value and civic duty of jury service.¹⁴ Such a program would involve state and local bar associations, schools, churches, community associations, and similar forums.

In the Arizona Supreme Court report, *Jurors: The Power of Twelve*, it is recommended that new and innovative

"Prospective jurors' understanding of and appreciation for the jury system will be enhanced only if citizens are educated before they ever receive a summons to serve. Children in particular must be taught to respect the jury system and to appreciate the value of citizen participation in the judicial process."

11 MCMAHON, ET. AL. *op. cit.*, p. 11.

12 *Ibid.*

13 MCMORRIS, FRANCES A., *The Wall Street Journal*, October 13, 1994.

14 MCMAHON, ET AL. *op. cit.*, p. 11.

*McMahon, et. al.
The Jury Project
Mar., 1994*

programs be undertaken by the bench, bar and schools, ". . . to better acquaint the adult and youth populations with the institution of the jury, with jury service, and with jury trials so that public attitudes toward all three will improve."¹⁵ Recommended programs include: an annual "Jury Appreciation Week"; use of media articles and programs; live presentations by judges; publication and distribution of brochures and guides; multi-media displays in the jury assembly rooms,

schools and libraries; outreach programs by lawyers and judges; and a comprehensive public education program to reach children and teachers beginning in the elementary grades.

The State of California, like all other states, is required to pass implementing legislation for the National Voter Registration Act by January 1, 1995. This act, popularly known as "motor voter" legislation, will provide voter registration opportunities when a person applies for or renews a driver's license, completes a DMV change of address form, applies for or receives services from public assistance (welfare) agencies, or visits other offices which provide state services. It is expected that this process will expand the number of registered voters. The use of this list may result in a cost savings for the County if the "motor voter" list eliminates the expense currently required to merge the DMV and voter registration lists. The State Legislature has passed implementing legislation, but Governor Wilson, as of the date of this study, will not sign it into law until a dispute with the Federal Government over cost estimates is resolved.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

1. Review the cost-effectiveness of the use of additional source lists to supplement the lists of registered voters and

¹⁵ DANN, ET AL., *op cit.*, p. 11.

licensed drivers now in use. Emphasis should be placed on lists providing current addresses.

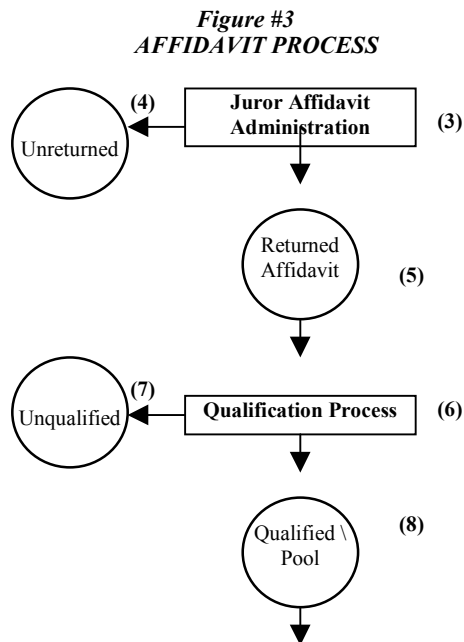
2. Rigorous enforcement procedures should be instituted for non-respondents to include: a follow-up module to track those who do, or do not respond; failure to appear notices; and serving warrants to appear in selected cases. Using certified return-receipt mailings might be tried as a pilot project to determine if the increased response is worth the cost.

3. Institute educational and outreach programs, including public service announcements, the involvement of schools and libraries, seminars, judicial outreach, orientation in citizen naturalization programs and employer education programs emphasizing the value of, and civic responsibility for, jury service, and its positive value.
4. Enlist the Los Angeles County Bar, the California State Bar and other legal associations to assist with education and outreach programs on the value of jury service to citizens and employers.
5. Court jury management should proceed in an expeditious manner to achieve their goal of summoning individuals for jury service no more than once every 4 years.

C. NOTIFICATION AND QUALIFICATION

CURRENT PROCEDURE

As previously described Los Angeles County uses a two-part mailing system. The first mailing contains a Juror Affidavit, which the recipient is to complete and return within 10 days [Figure #3-(3)]. The Juror Affidavit contains three sections: a qualification questionnaire, an exemption certification (only for Peace Officers in California), and a request to be excused. In responding, an individual must sign a certification that his/her statements are true [Figure #3-(5)]. As is illustrated in the flow chart [Figure #3-(4)] and as pointed out earlier, 48% of the Juror Affidavits mailed out are never returned.



"Unless we do something to change that perception (that jury service is to be avoided), the day will come when the inviolate right to trial by jury will be violated because there will not be enough jurors. It is that simple."

*McMahon, et. al.
The Jury Project
Mar., 1994*

The returned Juror Affidavits are hand sorted, and go through a qualification process [Figure #3-(6)]. This process eliminates those who are unqualified, exempt from service, or are excused. [Figure #3-(7)] The Juror Affidavit work flow and the numerous steps required to process the Juror Affidavits are illustrated in Appendix C. From the remaining list of qualified and available potential jurors [Figure #3-(8)], a computer randomly selects those who are then notified by a second mailing (Los Angeles County Trial Jury Summons, Appendix B) of a reporting date for jury service. This date is a minimum of 2½ weeks from the time the summons is mailed, although longer notification is considered desirable as it gives jurors more time to make plans for jury service. In this summons jurors are directed to report to a court location not more than 20 miles from their residence.¹⁶ Los Angeles County is currently experimenting with the use of an additional summons-like mailing to the current 48% of non-respondents to the initial Juror Affidavit. (All no-shows to a summons receive an additional mailing.)

In Los Angeles County, 15% of initial mailings are returned as undeliverable. The Juror Services Division uses contractors to analyze these data to determine the census tracts and zip codes with the highest percentages of undeliverables.

ALTERNATIVE APPROACHES

Los Angeles County is considering implementing a one-part mailing, similar to that used in many other U.S. counties, including Orange and Ventura Counties, and the Federal Court system (Appendix D, an example of the Orange County Summons, is illustrative of the type used by other counties.

¹⁶ This is a policy established by the Court whereby the distance to where the juror will serve is determined by measuring from the center of the census tract in which the juror resides to the center of the census tract in which the court is located. By State law, however, a juror can be required to report to ". . . any Superior or Municipal Court in Los Angeles County," as stated in the Juror Affidavit.

The Federal Court Summons is Appendix E.) Although the development of a one-part summons may require additional effort on the part of the Court initially, it would ultimately reduce paperwork processing and possibly mailing costs.

In the one-part process, the summons directs the juror to report for jury duty on a specific date. It also provides for additional jury system requirements including: administrative information, a map showing where to report, and a detachable juror badge. A qualification statement, a biographical information section (required by Orange County for *voir dire*, but not by Los Angeles County), and requests to be excused or postponed, are also included. These items are required to be completed and returned within 5 days of receipt. Those who are excused or postponed are notified by return mail prior to their summons date.

"It's up to court officials to package jury duty more attractively if they want more people to participate."

Ventura County uses a one-part mailing (summons) which is very similar to that used in Orange County with the exception that notification is given to those requesting to be excused only when the excuse is denied. Ventura's notification upon the denial of an excuse is based upon the fact that a majority of the requests for excuse are granted. Thus, Ventura has chosen to notify on an "exception basis" the smaller group, those whose requests are denied. This approach attempts to minimize the amount of communication required while reducing associated costs.

*Stephen J. Adler
Wall Street Journal
Sep. 14, 1994*

The United States District Court (Federal Court system) also uses a one-part mailing. This form is a combination juror information sheet, parking permit, and summons for jury service. The juror information sheet contains instructions on when and where to report, a map, transportation information, parking, juror payments and expenses, requests for permanent excuse, and job protection while serving on jury duty. It also contains "A Message to Employers" explaining the time obligation of the juror, the "Protection of Juror's Employment Statute," and a strong plea for employers to institute a policy of paying at least the difference between the employee's salary and the Federal juror pay of \$40 per day.

This summons specifies the date, time and place the juror is to report, and contains a questionnaire to be returned within 10 days. It also contains information to determine juror qualification or the grounds for exemption or excusal from service.

In New York State, research on undeliverable mailings has demonstrated significantly higher percentages of undeliverable mailings in areas with large minority populations and/or lower income levels. The causes for this are assumed to lie in relocation patterns of socio-economically disadvantaged individuals and the reduced likelihood of these individuals to participate in a system which some may perceive as being biased against them.¹⁷ In developing a one-part juror summons, consideration should be given to incorporating a process that will facilitate a future computerized process to qualify jurors. The court should find an increase in compliance when the mailing is in the form of a summons to report for jury duty on a specific date. The County has already experienced an increase in compliance by sending "Failure to Appear" notices (Appendix F) to jurors who did not report for jury duty when summoned.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

6. The installation of a one-part juror summons containing accurate and essential information. This mailing should emphasize the positive aspects of jury service to citizens, as well as the penalties for not responding.

¹⁷ McMAHON, ET. AL. *op.cit.*, p.11

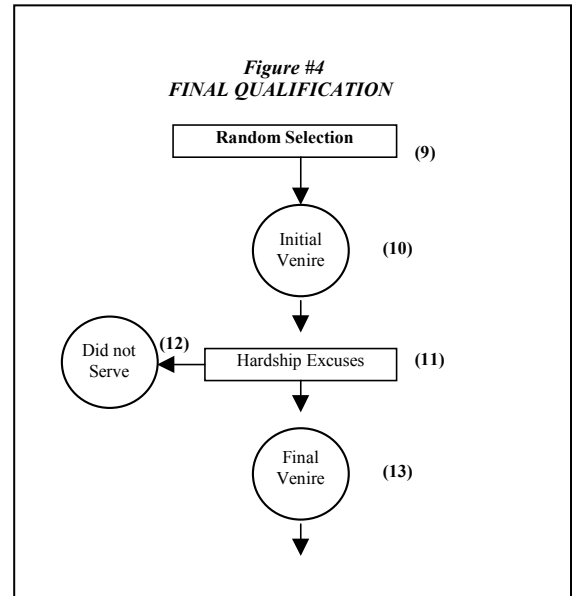
7. During the interim, while using the current two-part mailing system, additional information should be included in mailings, i.e., available options and confusing information on the Juror Affidavit should be revised.
8. The conversion to a computerized qualification process to replace the current manual Juror Affidavit processing should be implemented as soon as possible.
9. Establish a regularly scheduled review to determine the locations and causes of the 15% undeliverable returns so that corrective actions to decrease the percentage can be taken.
10. Simplify the notification process to provide each citizen more flexibility in choosing the location at which he/she would serve. (For example, a juror may prefer to be assigned to a court location close to his/her work location, rather than within a 20 mile limit from a residence.)
11. Communication by the Court with potential or selected jurors should be conducted on an "exception" basis, to the extent possible.
12. Use cable TV/local access channels to orient jurors on procedures, parking, et cetera, before they report

D. SUMMONING AND IMPANELING ON A JURY

1. JUROR FACILITIES

CURRENT PROCEDURE

From a computerized random selection [Figure #4-(9)] an initial venire (a group of people from among whom juries will be selected) [Figure #4-(10)] is summoned to report for jury duty. Individuals within this venire are again able to request hardship excuses [Figure#4-(11)]. Those not qualified or granted an excuse are then dismissed [Figure #4-(12)]. Qualified and non-excused jurors are assembled in a final venire [Figure #4-(13)] in the jury assembly room.



The complaints from those who have served on jury duty in Los Angeles County and those reported in the media include: crowded jury assembly rooms; particularly in the downtown locations; a lack of amenities such as adequate or comfortable seating, reading materials, television sets, facilities to use portable computers, or capabilities to use pagers to allow waiting jurors to leave the assembly room, while remaining in the vicinity. The drinking water available to jurors is also reported to be highly undesirable in some locations.

Twelve of the 28 jury assembly rooms in Los Angeles County have not been renovated in more than 10 years. The jury assembly room at the South Bay (Torrance) Municipal Court, located in the building basement, has been noted as a particularly unattractive facility.

ALTERNATIVE APPROACHES

In *The Jury Project*,¹⁸ a number of serious deficiencies in juror facilities and amenities in New York State are described.

¹⁸ MCMAHON, ET. AL. *op. cit.*, p. 11.

These include dilapidated, cramped, dirty, under-maintained, and (in a few cases) unsafe facilities. The report states that ". . . jurors have a right to decent surroundings, humane working conditions, considerate treatment, and helpful and informative instructions at all phases of their visit to the courthouse. Few would argue that jurors who give high marks to the way they were treated are the jurors most likely to deliberate fully and fairly, and to come back willingly when they are called to serve again. The logical imperative is to take their complaints seriously and do something about them."

Although juror facilities and amenities in the Los Angeles County Courts may not be as bad as those which exist in certain parts of New York State, a number of them are acknowledged to be far from attractive or optimal. It should be a priority of the Courts that these facilities be up-graded in order to contribute to a more positive and productive experience for jurors.

Many other counties in California, including Orange and Ventura Counties, provide more attractive facilities for their waiting jurors. Kern County, in particular, provides large, well-furnished juror assembly rooms. The Bakersfield assembly room has a lunch area, a reading room, cable TV, board games, personal lockers, art on the walls, and a good supply of new magazines and newspapers.¹⁹

The ABA Standard 14: *Jury Facilities*, states:

The court should make all facilities accommodating to all jurors, including those with disabilities. Adequate facilities play an integral part in the realization of an efficient, well-managed jury operation. It is difficult, for example, to maintain an efficient and secure jury operation when people must gather in overcrowded rooms and when jury management personnel are not located adjacent to the jury assembly room.

"You can't drink the water in many Los Angeles County jury assembly rooms. There's a chance you won't even get a seat while you are waiting, if there is a waiting room at all. . . . Welcome to jury duty in Los Angeles County, where many say it is a wonder anyone serves at all. The creature comforts are minimal, and for some, a disincentive to ever serve again."

*Josh Meyer
L. A. Times
Sep. 28, 1994*

¹⁹ JOSH MYER, LOS ANGELES TIMES, September 28, 1994.

Poor spatial arrangement and unsatisfactory environmental conditions, in addition to inadequate facilities, can reduce the efficiency of operations. Inadequate attention to the accessibility of courthouse facilities can reduce the representativeness of the jury pool by, in effect, excluding many otherwise eligible persons whose mobility is impaired. The standard recognizes the need for an adequate and suitable environment for jurors, not only to allow them to wait in comfort and dignity but also to orient them to the trial process, to carry out administrative details, and to properly accommodate the movements, voir dire, and selection process in trial proceedings.

". . . I was so chilled and annoyed that I was not being put to use while my work was being neglected that I added my name to the 'excused' list and quickly departed."

*Ellen Stern Harris
L. A. Times,
Oct. 25, 1993*

The ABA Standard 14: *Jury Facilities*, further states:

Courts should provide an adequate and suitable environment for jurors.

(a) The entrance and registration areas should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.

(b) Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.

(c) Jury deliberation rooms should include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation room should be ensured.

(d) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, (trial) parties, counsel, and the public²⁰.

²⁰ KANE, WALTER, ET AL. *Standards Relating to Juror Use and Management*. American Bar Association, Judicial Administration Division, Committee on Jury Standards. State Justice Institute, 1983, Rev. 1993.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

13. Review current jury facilities with the objective of meeting ABA Standard #14.
14. Direct that a percentage of the Court's annual budget be committed to up-grading sub-standard juror assembly room facilities, and to provide for a reasonable degree of amenities for waiting jurors.
15. Designate waived juror fees as contributions to be used to help defray part of the costs of the amenities recommended above.
16. Encourage outside funding sources, such as civic-minded companies, to assist in upgrading facilities.
17. Review current facilities and practices to maintain and ensure a secure environment for jurors in both criminal and civil courts.
18. Establish an efficient means to answer questions or respond to problems jurors are experiencing, i.e., a TV monitor that provides responses to the most frequently asked questions.
19. Investigate the installation of child care facility in the courthouse to increase and encourage juror participation.
20. Utilize persons receiving general relief or other social services assistance to help with maintenance and repair of facilities.

The Commission recommends that the Board of Supervisors:

21. Direct the Internal Services Department immediately repair or replace the water supply equipment, where needed, to ensure acceptable drinking water to jurors.

2. TERM OF SERVICE

"While a juror's problems with inadequate pay, inhospitable facilities, physical discomfort and lost time are very real, those issues are often forgotten in the thrill and the responsibility of hearing evidence and reaching a verdict. By the same token, they are magnified if the juror never gets to try a case."

*McMahon et. al.
The Jury Project
Mar., 1994*

CURRENT PROCEDURE

After allowances for hardship excuses, a final panel (venire) of potential jurors is assembled [Figure #4-(13)]. At this point, jurors are under the direction of jury management personnel. Jurors are given an orientation and receive an information booklet, entitled *Now that You are a Juror*, explaining the processes from selection of a jury to reaching a verdict.

Los Angeles County currently requires a qualified juror to serve on one sworn trial, or 10 days service. Credit is received for a trial which reaches a verdict or is "hung" without a verdict. Jurors on "on-call" status receive a one-day credit toward their 10 days service for the days they report, or for late morning call-ins for same day service, whether or not they have to report. No credit is received for evening call-ins unless the juror is told to report the next day and does so. The average term of jury service is 6.2 days.

It is the Court's policy in scheduling daily jury trials to complete the term of service in consecutive days whenever practical for the Court's schedule. In scheduling trials less frequently, the term of service is to be scheduled so that the juror is required to be available no more than three weeks, except as necessary to complete the hearing of an action. [Los Angeles County Code, (Chapter 4.76 - Jury Service, and County Ordinance 87-011U.)]

Potential jurors summoned to report who wish to request a postponement, a different location, or more information and attempt to use the telephone numbers listed in the summons frequently find the line busy.

This is one of the most prevalent complaints heard by those in charge of jury management. To address this problem, the County has recently signed an agreement with a major telephone services supplier to provide a menu driven, inter-active 24 hour a day telephone system with more lines. When Phase I is installed in FY 1994-1995, this system will enable users to request changes, confirm dates, and obtain additional information. Additional improvements will be added in Phases II and III.

ALTERNATIVE APPROACHES

From October, 1992 to October, 1993, Los Angeles County tried a one trial/5 day service term. Initially, this term was well-received. The reason given by jury management for its abandonment was that jurors misunderstood the system, often believing they were only required to serve 5 days. There was also concern that employers were inclined to reduce the length of time they would pay employees on jury duty. Los Angeles County jury management personnel advise that the latter did not occur.

The nationwide trend has been a reduction in the length of service expected from jurors. In 1987, about 20 percent of U.S. jurisdictions, including both metropolitan and rural areas, used a term of service of one trial/one day. By 1994, that percentage had increased to an estimated 33 percent. A Ventura County jury management official reporting on the status of their one day/one trial system, stated that the single most important change made in the past 10 years which has increased juror productivity and reduced complaints was the reduction of the term of service to one trial/one day.

Orange County reports they have been operating successfully with a one-trial/one day system since January 1993. Jury management officials in Orange County state that there has been increased satisfaction with jury service from both jurors and from employers. Additionally, Orange County's new system is expected to produce over \$500,000 annual net savings from the jury operations budget--about 16% of their total expenditures. The savings are generated by a change in the fee payments in which the \$5 per day fee is not

"Prospective jurors are a rebellious lot...but, once on a jury, citizens' attitudes change. For serving on a jury is the most important and consuming civic duty most Americans experience."

*Bill Boyarsky
L.A. Times
Sep. 29, 1994*

paid to those who report for the first day, and who do not serve on a jury and are dismissed at the end of the first day. Otherwise, the fee and expense payments are the same as those in Los Angeles County.

"In L. A. they treat jurist (sic) just the same as they do the criminals with no appreciation or courtesy and only five dollars per day."

*George Yoshinaga,
Columnist,
The Rafu Shimpō
(Japanese/English bilingual
newspaper)
1994*

The success of this change is based on the assumption that a juror would prefer reporting for one day and not be paid, rather than to report for 5 or 6 days and be paid \$5 per day. This innovative change also pays for the increases in personnel and administration expense required by the new system. However, Los Angeles County Counsel has advised jury management personnel that based on California case law, they may not limit jury fees and mileage, as is done in Orange County, for the first day.

One of the major benefits resulting from a reduction in the term of service, and reducing juror waiting time is lower costs to employers who pay employees while on jury service. The annual savings to those employers for each day of service reduced are calculated to be \$51,199,832. [This amount is calculated in Section VI. F. 2. Employer Salary Payments to Employees on Jury Duty.]

American Bar Association (ABA) Standard 5: *Term of and Availability For Jury Service* recommends:

The time that persons are called upon to perform jury service and to be available therefore, should be the shortest period consistent with the needs of justice.

(a) Term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or completion of one trial, whichever is longer, is acceptable.

(b) *Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in areas with few jury trials when it may be appropriate for persons to be available for service over a longer period of time.*²¹

A Supplement to the *Methodology Manual for Jury Systems* discusses a number of advantages and disadvantages of reduced terms of jury service. The evidence appears to support the hypothesis that a shorter term of jury service has many more advantages than disadvantages, both for those who serve and for those responsible for jury use and management.

It is pointed out by Munsterman, Munsterman, and Gallas²² that experience in many jurisdictions which have installed shorter terms of service indicates that increased administrative cost may be offset by improved juror use, an increase in the yield due to fewer excuses, or improved automation support in the qualifications and summoning processes.

Many jurisdictions have also increased the percentage of juror use by better estimation of court demand and the elimination of inefficient practices such as calling unrealistically large numbers of jurors. They also have the orientation process streamlined to an hour or less on the first morning people report. This makes frequent orientation less of a problem.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

22. Actively work toward the implementation of a shorter term of jury service on a pilot basis. (Due to the size and complexity of Los Angeles County's Court system, implementing a

“The one change in jury systems over the past ten years which has had the greatest impact on the citizen has been the reduction in the length of time which persons are asked to serve.”

*Munsterman, et. al.
Methodology Manual for
Jury Systems (Supplement)
May, 1987*

²¹ KANE, WALTER, ET AL. *op. cit.* p. 24.

²² MUNSTERMAN, ET. AL., *op. cit.* p. 10

one trial/one day system in one or more "pilot" locations within the County Superior and Municipal Court system may be a first step.)

23. Insure that the installation of a new telephone system is more efficient and "user friendly" with the capability to receive and send telefacsimile (FAX) information or other similar options.
24. Include citizens who have recently served on jury duty on groups reviewing the jury management system.

3. TREATMENT OF JURORS BY COURTHOUSE PERSONNEL

CURRENT PROCEDURE

In the recent past, Los Angeles County extensively used court liaison personnel in civil cases to perform the functions of leading panels of unsworn jurors from the assembly room to the courtrooms. While performing these duties they were able to provide information on court procedures, delays, and related items. Many of these positions are currently vacant, remaining unfilled due to budgetary constraints. At present, one of the jurors on an unsworn panel is assigned to lead the panel to the courtroom location. This arrangement can result in potential jurors not knowing what is going on, or why delays are taking place.

Over a period of 12 months, approximately 12,000 jurors (out of the 187,000 jurors who served) responded to the Los Angeles County *Juror Exit Questionnaire* (Appendix G). Responses to the questionnaire indicate that a high percentage of jurors were kept waiting for 15 or more minutes without any explanation for the delay. Sixty-seven percent of jurors who had completed jury service, replied "Yes" to the question: *"On at least one occasion, I was requested to wait in the hallway in excess of fifteen minutes."*

From the same group, 43% replied "No" to the question: "If yes (to the prior question), I was kept informed of the reason for waiting."²³

Some Economy and Efficiency Commissioners who had served on jury duty reported they were given information by courthouse personnel which was not consistent with reported juror service policy. Examples include: whether jurors received credit for time on a "hung jury", the length of time a juror could be on "on-call" status, postponement policies and similar matters.

It is recognized that it may be necessary for the courts to modify jury service policy from time-to-time to meet their needs, but juror service policies should be monitored for consistent interpretation and application as much as possible.

ALTERNATIVE PROCEDURES

In *The Jury Project*,²⁴ numerous instances were cited of discourteous, thoughtless, or inappropriate behavior shown to jurors by courthouse personnel in New York State courts. This report recommends the adoption of a *New York Standard No. 20* (The American Bar Association has not issued a standard for treatment of jurors.)

Suggested New York Standard No. 20 reads:

1. *Jurors shall at all times be treated with courtesy and respect by judges, attorneys and court personnel.*
2. *Commissioners of jurors and court personnel shall regularly examine their practices to ensure that routine matters are carried out in ways that maximize the convenience of jurors.*

"Too many well qualified prospective jurors automatically avoid (jury) service. Now I know why. Those in charge of the jury system must assure those called for service that they won't be wasting their time."

*Ellen Stern Harris
L. A. Times
Oct. 25, 1993*

²³ Summary of responses to Los Angeles County *Juror Exit Questionnaire*.

²⁴ MCMAHON, ET AL. *op. cit.*, p. 11.

Although the treatment of jurors within the Los Angeles County Court system may not be as severe as those reported in New York State, the suggested *New York Standard No. 20* or a similar presentation should be considered for adoption by Los Angeles County Courts. This action would significantly contribute to the advancement of professional standards within the jury management system.

As noted in Section IV B., the Arizona Supreme Court report, *Jurors: The Power of 12*, recommends the adoption of a "*Jurors' Bill of Rights*." This recommended Bill of Rights states that jurors should be treated fairly, courteously, and be given opportunities to be more productive.

Ventura County does not use a juror exit questionnaire; but Orange County does, mailing it to jurors' homes after they have completed jury service. This mailing includes a cover letter and a postage-paid return envelope for jurors' use.

The Los Angeles County *Juror Exit Questionnaire* is an important document in determining what aspects of the County's jury management system require attention. Improvements to this document would make it a more effective management tool. The questionnaire should differentiate between those who served on a jury and those who did not. By making this distinction, a relationship can be established concerning the relative levels of satisfaction, based upon whether a person actually served on a jury. Additionally, question #10 which asks jurors if the 10 day service or one trial ". . . is about the right length of time. . . ." would be more useful if structured to identify a preference for a term which is shorter, the same length, or longer. It has also been reported by those who served on jury duty that the *Juror Exit Questionnaire* was not routinely distributed at the close of the term of service.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

25. Ensure that jurors are given clear and complete explanation by Court personnel about what is happening to them and why.
26. Ensure that jurors are given information on jury service requirements, which is consistent with established jury management policies. This can be accomplished by establishing “ombudspersons” to provide explanations while jurors are waiting for *voir dire* and to generally assist them with questions or problems.
27. Improve jury management procedures as follows:
 - a. Abandon roll call where still used to take attendance. Instead, station a clerk at the door to check off attendance and to handle other administrative matters
 - b. Consider reallocation of staff hours in jury management offices so that administrative duties can be completed during off-peak hours and, thus, not interfere with juror processing.
 - c. Schedule office hours prior to normal starting time, and later than normal closing time, at least one day per week, so that summoned jurors can deal with court personnel on excusals, deferrals, handicapped accommodations, or similar matters at a time more convenient to them.
 - d. Adopt the practice that no juror be sent out for a second *voir dire* until all jurors have been sent out on their first. Use written juror

questionnaires to cover basic background information and to prescreen jurors for cause.

- e. To improve juror feedback, routinely distribute the *Juror Exit Questionnaire* to everyone upon the completion of jurors' service with the request that it be returned prior to leaving the courthouse. Review the *Juror Exit Questionnaire* and revise it as needed, to ensure that it gives jurors an opportunity to express reactions to their experience, make suggestions.
28. Adopt a Jurors' Bill of Rights defining the rights and responsibilities of jurors. This document should be distributed to all jurors, posted in jury assembly rooms, and used in Court outreach programs.
 29. Emphasize the policy that jurors are to be treated at all times with courtesy and respect by judges, attorneys, and court personnel. All court personnel who have contact with jurors should have incorporated into their training requirements a segment on working with jurors to ensure that the jury experience is productive.
 30. The Judiciary should minimize the amount of time prospective jurors spend waiting and not hold jurors while completing unrelated court business. Procedures should be reviewed regularly to ensure that jurors experience a minimum amount of physical disruption and inconvenience; when possible, have the judge and attorneys leave the courtroom for conferences rather than the jury.
 31. Seek support for jury service from public service programs, i.e. Dial-A-Ride. Seeking such organizational interaction may well prove beneficial to all concerned.

E. CERTIFICATION/PAYROLL PROCESSING

1. JUROR COMPENSATION AND EXPENSE REIMBURSEMENT

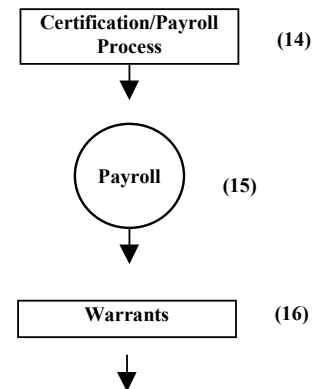
CURRENT PROCEDURE

Los Angeles County pays jurors a \$5 fee for each day served, a travel allowance of 15 cents per mile for one way travel, and provides free parking [Figures #5-(14) through #5-(16)]. The \$5 daily fee is the amount recommended by the State, although each County is able to pay a different amount if they choose. Research indicates most California Counties pay \$5, although a few do pay more, usually \$15 to \$20. The fee and one-way mileage payment were set, not to meet a specific objective or need for juror reimbursements, but to establish a "stipend" to provide a minimum amount of compensation, while keeping court expenses down.

Jurors are paid for each day they are present in the jury assembly room when they are "scanned in" or answer a roll call. Jurors submit their one-way mileage from home the first day they report, and receive credit for the same mileage each day they serve. Any major discrepancies on the mileage claimed are discussed with the juror. Checks are issued to jurors within two weeks of the completion of jury service, except for jurors who are on an extended trial who are paid on a monthly basis.

Los Angeles County Courts, like other court systems, are under continuing pressure to reduce their expenditures and jury fees represent the largest item in the jury management costs.

Figure #5
JUROR PAYROLL PROCESSING



ALTERNATIVE APPROACHES

A concern exists that lower fees may impair the quality and character of citizens participating in jury service. Potential negative effects on yield, jury representation, and juror satisfaction are also possible. Even so, evidence supports the fact that fees can be changed without negative effects if they are part of a general juror management program which considers other means of lightening the burden on those serving. The most common technique of impacting the program is to reduce the term of service, as previously discussed in this study.

“...I think it would be great for jurors to be recompensed for the true cost of their services...and that would be a figure many times \$5. I think \$5 is almost an insult.”

*Judge Robert M. Letteau
Of the Van Nuys
Superior Court*

*As reported by Thom
Mrozek,
L.A. Times,
Feb. 1, 1994*

The American Bar Association (ABA) Standard 15: *Juror Compensation* states:

- (a) *Persons called for jury service should receive:*
 1. *A nominal amount in recognition of out-of-pocket expenses for the first day they report to the courthouse.*
 2. *A reasonable fee for each succeeding day they report.*
- (b) *Such amounts and fees should be paid promptly.*
- (c) *State law should prohibit employers from discharging, laying off, denying advancement opportunities to or otherwise penalizing employees who missed work because of jury service.²⁵*

*The Jury Project*²⁶ for New York State has recommended increasing juror fees from their current \$15 per day plus some travel reimbursement to \$40 per day with no travel reimbursement. (\$40 per day is also the Federal court standard.) The New York State report recognized there would be increased costs associated with this recommendation, but felt that they could be substantially reduced by the elimination of travel reimbursement and the associated administrative costs.

Other cost impacts include: not paying jurors whose employers voluntarily compensate them for jury duty, the institution of efficiencies which would reduce jury days served such as one day/one trial, the use of telephone call-in systems, the elimination of inefficient jury management practices, a reduction in the number of peremptory challenges, changes to shorten the *voir dire* process, and similar improvements.

The State of Massachusetts, which has a one trial/one day system, initiated an innovative program in which jurors receive no compensation for the first 3 days of service and thereafter, receive \$50 per day. The court can pay unemployed persons \$50 per day for the first 3 days of service. In addition, Massachusetts's employers are required by law to pay employee/jurors their normal salary for the first 3 days of jury service.

Jury service is a civic responsibility and it is fair to ask people to make some sacrifices in carrying out that responsibility. It seems unreasonable however, to ask those who serve on jury duty to incur significant out-of-pocket expenses to meet this responsibility

“Many Californians’ first extensive encounter with the justice system is as a juror or prospective juror. Such experiences can help persuade the public of the system’s fairness and accessibility. Without juries, public contact with the courts would be significantly reduced.”

“Justice in the Balance 2020”,
Report of the Commission on
the Future of the California
Courts, 1994

²⁶ McMAHON, ET. AL. *op. cit.*, p. 11.

RECOMMENDATION

The Commission recommends that the Los Angeles County Courts consider the following:

"The difficulty of impaneling representative juries is even more difficult in trials that may last more than two weeks, simply because most employers can't afford to pay their workers for such lengthy periods of jury duty."

*Daily News
June 7, 1994*

32. The County Court system, using ABA Standard 15 as a guide, review the compensation paid to jurors. The initial objective should be to cover a reasonable level of daily juror expenses.

2. EMPLOYER SALARY PAYMENTS TO EMPLOYEES ON JURY SERVICE

CURRENT STATUS

When employers **do not** pay employees for time spent on jury service, the excused rate for hardship increases substantially, thus reducing the yield of potentially qualified jurors. Throughout Fiscal Year 1993-1994, about 7% of the total mailings to prospective jurors (279,127 persons) were excused for financial hardship. Many of these excuses result from employers not paying the employee while on jury duty. In Fiscal Year 1992-1993, the percentage was 10%. A Los Angeles County survey of 22,000 jurors, who served, reported that 86% of their employers paid for 10 or more days of service. The average payment was made for 6.3 days of service. It is not known what percent of employers pay their employees while on jury duty in Los Angeles County, but a list of employers who do pay, together with data on the duration of payment is maintained. Although the list is not inclusive, there are currently over 900 employers listed.

The payments made by employers to their employees serving on jury duty represents a substantial annual cost of over \$300,000,000 as estimated in the following table:

ESTIMATED COST TO EMPLOYERS WHO PAY FOR EMPLOYEE JURY SERVICE

Number of Jurors Summoned: FY 1993-94	391,676
Percentage of Jurors who are Paid by Employer	86%
Average Annual Earnings*	\$31,760
Employee Benefits as Percent of Compensation	25%
Average Daily Earnings + Benefits/261 days	\$152
Average Days Served on Jury Duty	6.3
Annual Employer Cost for Jury Service**	\$322,558,942

It appears, using these rough estimates, that the Los Angeles County Court System can have, by operating more efficiently and reducing the average number of days of jury service, a significant positive impact on the costs to employers.

ESTIMATED ANNUAL PRODUCTIVITY INCREASE TO LOS ANGELES COUNTY
EMPLOYERS BY REDUCING THE AVERAGE DAYS OF JURY SERVICE

One days reduction	\$ 51,199,832
Two day reduction	102,399,664
Three Day Reduction	153,599,496

*Average Annual Earnings for all occupations in the Los Angeles/Long Beach Area for 1993.²⁷

**This estimated amount is not reduced by any additional work time provided to the employer by the employee/juror, any potential positive tax implications for the employer, or by those that may be excused.

As more employers rely on contract, temporary, or part-time employees, rather than permanent, full-time employees the percentage of employers who pay employees while on jury service is likely to decline. This trend is likely to increase the number of potential jurors who seek excuses as a result of financial hardship.

“Funny that this place, whose reason for being is wrong-doing, leaves you with the overwhelming feeling that the world is full of solid citizens.”

Anna Quindlen
New York Times
June 16, 1994

²⁷ Source: Bureau of Labor Statistics, United States Department of Labor

*" . . . reform will help
the jurors feel they
are treated with the*

*Bill Boyarsky,
L. A. Times,
Dec. 26, 1993*

As part of its outreach program, Los Angeles County Courts periodically send letters to employers who pay their employees during jury service, thanking them for their support of the jury system. These letters notify them of major changes on juror policy, such as the term of service; advises on juror usage policy, such as postponements and deferrals; and may request their response to an employer survey on their jury leave policies (Appendix H). Employers are also provided with a brochure containing information about jury service. (Appendix I.)

ALTERNATIVE APPROACHES

In a 1990 survey as part of a study of eight different court systems across the country, 1,651 persons excused or deferred from jury service were asked if they would serve if conditions were more convenient. Seventeen percent replied that they would if they continued to receive their salaries. This was the second largest category, behind "*a brief term of service*," with a 27% positive response.²⁸ Previous studies have shown that most employers do pay employees who serve on jury duty as a fringe benefit similar to vacation and sick pay. This practice varies considerably by type of employee, with 85% of salaried employees receiving this benefit, but only 34% of part-time workers, and none for employees working on commission.

Sixty-five percent of employers who do pay have a written policy concerning compensation while on jury duty, with larger employers more likely to have a policy than smaller employers. Most employers do not require employees to turn in the juror fees and expenses received, but do expect their employees to make up the work they miss, in the evenings, on weekends during jury service, or by extra hours after the jury service is complete. This demonstrates that much of the burden for jury duty remains on the employee.²⁹

²⁸ MUNSTERMAN, ET. AL. *op. cit.* p. 10

²⁹ *IBID*

In the 1990 survey noted above, employers were asked what factors of jury service were the greatest problem to them. Their responses were:

PERCENT INDICATING

<u>CATEGORY</u>	<u>ISSUE AS A PROBLEM</u>
• Unpredictable length of service.	78%
• Length of absence.	64%
• Inability to postpone service.	59%
• Finding replacements.	50%
• Late notice, either that juror is needed, or not needed.	48%
• Loss of business.	24%

“The right of a trial by jury is the privilege of every person in the United States. This right is guaranteed by the U. S. Constitution and the California Constitution, which provides, ‘the right of trial by jury shall be secured to all, and remain inviolate.’ ”

*County of Orange
Trial Juror
Information 1994*

It is noteworthy that the first, third and fifth categories--all with high percentages of problems for employers--are factors, which can be favorably affected by juror management policies and practices. The *Jury Project*³⁰ recommends that in the State of New York employers be required to pay for the first 3 days of service at the rate of at least \$40 per day, after which the state would pay \$40 per day.³¹ Where employers compensate their employees beyond the 3 days, the state would pay nothing. This proposal is also coupled with a recommendation for a reduced term of service of one trial/one day where feasible; or a maximum of one trial/5 days.

In January 1994, Orange County Courts mailed a letter to employers within the county advising them of the new, shorter term of jury service (one trial/one day). This approach resulted in a 50% reduction of juror days actually served. The letter also requested that employers consider paying employees while they serve on jury duty. Future plans include sending employers within Orange County an *Employer Opinion Survey* form to determine whether the new reduced term of jury service has had a favorable impact on employers' willingness to pay employees while on jury service.

30 McMAHON, ET AL. *op. cit.* p. 11.

31 If the employee is paid less than \$40 per day, the lesser amount would be paid.

Large corporations may have a significant number of their employees on jury service at any one time. Some corporations paying the employee's normal salaries may request that the amount paid as a result of jury service be submitted to the corporation. Because the amount paid to the employee as a result of jury service is small, the cost to the corporation of processing the check often exceeds the amount to be recovered. To facilitate this processing, the Court could allow the jurors to designate that payments for jury service be made directly to the employer. When an appropriate amount accrues in the corporation's account, a check can be issued. This approach could reduce the Court's check processing, while demonstrating to the employer the Court's recognition of their contribution. It would also contribute to the Courts' efforts to develop a meaningful program for employer cooperation.

Finally, Los Angeles County jury management personnel have indicated they are considering seeking tax credits for employers who pay for jury service. This credit would be in addition to the tax deduction employers can currently take for payments made to employees while on jury service.

RECOMMENDATIONS

The Commission recommends that the Los Angeles County Courts consider the following:

33. Survey large Los Angeles County employers who are not currently paying employees during jury service and based upon these results develop a program to encourage these companies to establish a paid jury leave policy.

34. If this voluntary approach does not achieve the expected results, the Courts should support legislation to require employers (with a minimum number of employees) to reimburse employees for jury service.
35. Develop a program to collect and accumulate jury fees for those employers who do pay employees while on jury service and who request reimbursement of the jury fee from their employees.

The Commission recommends that the Board of Supervisors:

36. Direct the CAO to conduct an expanded cost/benefit analysis of the economic impacts of the issues and recommendations made in this report.

VII. Conclusion

The Economy and Efficiency Commission of Los Angeles County, by tracking and examining the jury selection and impaneling process, has identified a number of both serious and minor problem areas in the management of juror services in the court system. Methods to address these problem areas have been identified, and 36 specific recommendations have been formulated. These recommendations, if put into effect, will improve the conditions under which jury duty is rendered by the citizens who are summoned to perform this vital public service.

Appendix J of this study references two important documents to improve the effectiveness of jury management: The American Bar Association's (ABA) *Standards Relating to Juror Use and Management*, and the National Center for State Court's *Methodology Manual for Jury Systems*. These documents are the foundation not only for a jury management system that is efficient and cost effective but also treats jurors with courtesy, respect, and proper recognition for the sacrifices they make.

"Former Chief Justice Warren Burger of the Supreme Court once encouraged judges to 'stretch the mind' and embrace reform."

*John Meyer
L. A. Times
Sep., 28, 1994*

The Commission recognizes that the implementation of some of the recommendations made in this report may require legislation changes, or changes in the State Judicial Council rules. Some recommendations will produce cost savings which will partially off-set some of the added costs of other recommended improvements. It may be likely that additional allocations will be required from the Court's juror services budget. This will be particularly true in the improvement of sub-standard jury assembly rooms and in providing basic amenities for jurors. The cost of these improvements will have a significant and positive impact on citizens summoned to jury duty.

It is also important that comprehensive measures be undertaken to increase the public's perception of jury service as the positive exercise of a civic responsibility. These measures may include educational programs through the schools, public service announcements, presentations to civic organizations, outreach programs to employers, and similar contacts with the public.

With the approval and support of the Courts in the implementation of the recommendations identified in this report, it is envisioned that the effectiveness of the jury system will be substantially increased.

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IX. Appendices

- A. Los Angeles County Juror Affidavit
- B. Los Angeles County Trial Jury Summons
- C. Juror Affidavit Workflow
- D. Orange County Jury Summons
- E. Federal Jury Summons and Information Sheets
- F. Los Angeles County Failure to Appear Notice
- G. Los Angeles County Jury Exit Questionnaire
- H. Los Angeles County Employer Letter and Employer Survey
- I. Los Angeles County Information for Employers about Jury Service
- J. Jury System Productivity

Appendix “J”

Jury System Productivity

Jury System Productivity

Bringing together all the factors necessary to make a jury system operate effectively is complex, and requires the involvement of skilled management. This is particularly true in Los Angeles County Courts that have extraordinarily heavy demands for jurors.

The American Bar Association (ABA) adopted *Standards Relating to Juror Use and Management* in 1983, and revised them in 1993. These 19 standards, adopted after 5 years of work by 2 nationally representative panels of judges, lawyers, and jury experts, assisted by some of the country's leading scholars and research institutions, can serve as a comprehensive model for effective juror utilization. These standards have been adopted by many of the nation's professional organizations involved in court and jury management. They have been used for reference in this study and are suggested for consideration by Los Angeles County Courts where appropriate and feasible.

The National Center for State Courts in Arlington, Virginia, has done numerous studies on jury management and has assisted many courts across the country with projects to review and make recommendations to improve their jury management. One of these studies is a manual entitled, *Methodology Manual for Jury Systems*.³¹ This manual breaks down the system of jury management into a process with 12 interconnected elements.

Each element has one or more standards. Most of these standards are statistical. The remaining standards are policy and procedurally based.

The standards, which are based on achievable and demonstrated results in many courts, are goals or objectives toward which court systems can strive. These elements and standards are illustrated in the chart following this discussion. Since these standards were developed in 1981, it is recommended that they be up-dated as appropriate.

Dividing the jury management process into discrete elements and assigning standard values to them is important. It provides a methodology against which to measure performance and a basis for making comparisons from one month to another, current year to previous years, and with other court jurisdictions of similar size. In brief, it provides the capability to answer the question, "How well are we doing?"

³¹ MUNSTERMAN, G. THOMAS, *Methodology Manual for Jury Systems*, Project Director, Hawes, Mount, J. Munsterman, and Pabst; Center for Jury Studies, National Center for State Courts. Prepared for the Department of Justice, in support of the Law Enforcement Assistance Administration incentive program in juror use and management, December 1979, revised February 1981.

Just as important as maintaining data on performance, is what is to be done with the data. The data should be reported on a regular basis to the decision-makers allocating resources with the objective of improving performance, i.e., the Court Executive Officer/Jury Commissioner, the Presiding Judges of the Superior and Municipal Courts, to each court location, and to any other interested agencies.

JURY SYSTEM EVALUATION METHODOLOGY

System Elements	Standard
1. Jury System Plan	Develop and obtain approval
2. Source List	
- Eligible population coverage	$\geq 85\%$
3. Qualification/Summoning	Combined into a single process
- Mail	First Class
- Yield (total)	$> 40\%$
4. Exemptions, Excuses, Postponements	
- Class exemptions	None
- Excuses	Granted for hardship only
- Excuse policy	Develop written policy
- Postponements	Allow
- Exclusions	Mail or phone prior to reporting
5. Orientation	First day of attendance ≤ 1 hour
6. Term of service	One-day/one trial
- Usual appearance in pool	One day
7. Juror Utilization	
- Voir dire attendance	$\geq 100\%$
- Trial attendance	$> 50\%$
- <u>Service - Peak (%)</u>	$\leq 20\%$
Service	
8. Panel Sizes	
- Not reached	$\leq 10\%$
- Large panels	Prior notification for notorious cases
9. Calendar Coordination	
- Panel calls per day	≥ 3
- Zero panel call days	$\leq 10\%$
10. Standby Panels	
- Prediction formula	Develop method
- Standby call-in	Develop
-Mid-day notice	Consider need
11. Voir Dire	
- Multi voir dire	Consider use in small courts
-Single day impanelment	Consider when 3 panel calls per day is not achieved
12. Monitoring & Control	<u>6-Member</u> <u>12-Member</u>
- Juror days per trial (JDPT)	24 40
- People brought in (PBI) to select a jury	18 30
- Administrative cost per juror	$\leq \$5^*$

Source: Methodology Manual for Jury Systems, pg. X

*NOTE: Data presented in this chart was published in 1981.

***Note:* ALL JURY FORMS ARE AVAILABLE FOR VIEWING
IN THE E&E COMMISSION OFFICE**